

aligned such that they repel one another.

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(39) (amended) The fishing lure of claim 28, further comprising:

a tube means in the opening for allowing a line to pass from the tail of the artificial bait body through the tube means.

(40) The fishing lure of claim 39, further comprising:

a line passing from the tail of the artificial bait body through the tube means.--

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### REMARKS

The claims have been amended. For convenience in prosecution, all claims are repeated herein, even those which are not amended herein. Two sets of claims are included, one set showing the changes made in this response (attached) and one clean set (set out above). No new matter has been added to the application

Claim 9 was rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Preston. Applicant respectfully traverses this rejection. First, the fish lure of Preston is not a float as claimed. Second, the fish lure of Preston is not slidably received on a rod; it is instead rotatably received on a rod. Preston neither anticipates nor renders obvious claim 9.

Claims 18-24, 26, 27, 31-34, 39, and 40 were rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Brokaw. The claims have been amended to overcome this rejection.

Brokaw's design with a tubular member extending angularly upward and outward from the middle portion of the lure body towards the head section of said body which would create about a 20° incline passage way that would place the line entrance port of said tube at the farthest forward point in the lure body predisposing his design to hang in a vertical position in the water, thereby negating the lure's ability to mimic the natural position of live bait which is generally in a horizontal

position. Although Brokaw teaches a body comprising an opening forward of the tail and generally between the head and tail his design does not anticipate that a weighted tubular member placed in a vertical position in the head section of the lure body provides an effective counter balancing mechanism that offsets the weight that is applied to the lure body by placing the hook at or near the tail position of said body. Claim 18 has been amended to include the limitation that there be a weighted tube means in the artificial bait body for allowing a line to pass from the tail of the artificial bait body through the tube means and for causing the artificial bait body to be at a level position in the water while hanging on a fishing line. This limitation is neither disclosed nor suggested by Brokaw.

Brokaw's design with a tubular member extending angularly upward and outward to the farthest point of the head section does not consider that a space must be allotted for a means of attachment of a whisker in the forwardmost position in the lure body. Claim 33 now specifically claims whiskers, so it is not anticipated by Brokaw, nor is it rendered obvious by Brokaw.

Claims 28-30 and 35-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brokaw in view of Preston. This rejection is respectfully traversed.

Claim 28 is not rendered obvious by Brokaw and Preston. The device of Preston is a stand-alone lure, not intended to be used with another lure. It would not be obvious to add the device of Preston to the device of Brokaw. Even if one did, one would not have the invention as claimed in claims 29, 30, 36, 37, or 38, as the device of Preston is not a float.

All claims dependent on claim 18 are believed to be patentable by virtue of such dependence.

Applicant respectfully submits that the application is in condition for allowance. A Notice of Allowance is hereby respectfully requested.

Should the Examiner feel that a telephone conference would advance the prosecution of this application, she is encouraged to contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

Please charge any fees due or credit any overpayment to Deposit Account No. 50-0694.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on this 10<sup>th</sup> day of July, 2002.



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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Eric P. ORGERON, et al.                      DATE: July 10, 2002  
SERIAL NO.: 09/779,169                                      GROUP ART UNIT: 3643  
FILED: 8 February 2001                                      EXAMINER: Susan L. Piascik  
FOR: "Fishing Lure"  
ATTORNEY DOCKET NO.: A99274US (98062.3)

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**Copy of Amendments Showing Changes**

The application has been amended in the foregoing amendment to read as follows (added matter is underlined and omitted matter is in brackets):

**IN THE CLAIMS:**

Please amend the claims to read as follows (added matter is underlined and omitted matter is in brackets):

(Claims 1-8 have previously been cancelled).

--9. Apparatus for making a sound similar to the slapping or clicking noise that a live shrimp makes when the tail section of the live shrimp makes contact with its body section, comprising:

a float slidably received on a rod;

a first magnet attached to the float;

a second magnet attached to the rod, the first and second magnets being aligned such that they repel one another.--

(Claims 10-17 have previously been cancelled).

--18. (amended) A fishing lure for use in water with a fishing line, the fishing lure comprising: an artificial bait body having a tail; and

[an opening] a weighted tube means in the artificial bait body for allowing a line to pass from the tail of the artificial bait body through the [opening] tube means and for causing the artificial bait body to be at a level position in the water while hanging on a fishing line.

19. (twice amended) The fishing lure of claim 18, further comprising:

a line passing from the tail of the artificial bait body through the [opening] weighted tube means.

20. (twice amended) The fishing lure of claim 18, wherein:

the artificial bait body has a head;

the [opening] weighted tube means in the artificial bait body is positioned forward of the tail, generally in between the head and the tail;

the lure further comprises a flexible fishing line or leader having first and second ends, a first end being attached to the tail of the artificial bait body, the line or leader passing through the [opening] weighted tube means, wherein:

the second end of the line or leader is connected to a fishing reel or to a length of fishing line wound upon the reel.

21. The fishing lure of claim 20, wherein:

the line is a section of leader that has first and second ends, a first end attached to the tail, and the second end defining a point of attachment for attaching a user's rod/reel thereto.

22. (amended) The fishing lure of claim 18, further comprising a hook attached to the lure body.

23. (amended) The fishing lure of claim 18, further comprising a hook attached to the line.

24. (amended) A method of fishing using the lure of claim 18 to catch fish.--

(Claim 25 has previously been cancelled).

--26. (amended) The fishing lure of claim 18, wherein the artificial bait body is an artificial shrimp body [and there is a tube means in the opening for allowing a line to pass from the tail of the artificial shrimp body through the tube means].

27. The fishing lure of claim 26, further comprising:

a line passing from the tail of the artificial shrimp body through the tube means.

28. (amended) [The fishing lure of claim 27, further comprising] A fishing lure comprising:  
an artificial bait body having a tail;

an opening in the artificial bait body for allowing a line to pass from the tail of the artificial bait body through the opening; and

sound-making means for making a sound similar to the slapping or clicking noise that a live shrimp makes when the tail section of the live shrimp makes contact with its body section.

29. The fishing lure of claim 28, wherein the sound-making means comprises a float having a magnet thereon.
30. The fishing lure of claim 28, wherein the sound-making means comprises:  
a float means slidingly received on a rod means;  
a first magnet attached to the float means;  
a second magnet attached to the rod means, the first and second magnets being aligned such that they repel one another.
31. (amended) The fishing lure of claim 18, wherein the artificial bait body is an artificial shrimp body and [there is] the tube means is a tube [in the opening] for allowing a line to pass from the tail of the artificial shrimp body through the tube.
32. The fishing lure of claim 31, further comprising:  
a line passing from the tail of the artificial shrimp body through the tube.
33. (amended) The fishing lure of claim 18, wherein the artificial bait body is an artificial shrimp body and includes whiskers.
34. (amended) The fishing lure of claim 33, further comprising:  
a line passing from the tail of the artificial shrimp body through the [opening] tube means.
35. The fishing lure of claim 34, further comprising:  
a sound-making means for making a sound similar to the slapping or clicking noise that a live shrimp makes when the tail section of the live shrimp makes contact with its body section.
36. The fishing lure of claim 35, wherein the sound-making means comprises a float having a magnet thereon.
37. The fishing lure of claim 35, wherein the sound-making means comprises:  
a float means slidingly received on a rod means;  
a first magnet attached to the float means;  
a second magnet attached to the rod means, the first and second magnets being aligned such that they repel one another.
38. The fishing lure of claim 35, wherein the sound-making means comprises:  
a float slidingly received on a rod means;  
a first magnet attached to the float;

a second magnet attached to the rod means, the first and second magnets being aligned such that they repel one another.

39. (amended) The fishing lure of claim [18] 28, further comprising:

a tube means in the opening for allowing a line to pass from the tail of the artificial bait body through the tube means.

40. The fishing lure of claim 39, further comprising:

a line passing from the tail of the artificial bait body through the tube means.--